

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 7227 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE N.J.PANDYA and
MR.JUSTICE A.R.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

HARIBHAI PRATHIBHAI PATEL

Versus

RATHOD VIMLABEN WD/O DECEASED RATHOD PRATAPSINH VAGHJI

Appearance:

MR ARUN H MEHTA for Appellants

MR. MOHANBHAI S. DESAI, for the Respondents.

CORAM : MR.JUSTICE N.J.PANDYA and

MR.JUSTICE A.R.DAVE

Date of decision: 08/07/96

ORAL JUDGEMENT : [Per : Pandya, J]

Admit. With the consent of the parties, the matter is taken up for hearing today.

The appeal is required to be partly allowed so far as the quantum is concerned. Though the age of the deceased was 54 years, the learned MAC Tribunal (Auxi) Banaskantha at Palanpur, by his judgment dated 6.9.1993

in M.A.C.Petition No. 236/87 has granted multiplier of 12. Likewise, there is objectionable amount of compensation towards loss to the estate. While calculating compensation towards loss of future income, obviously, this aspect has been considered.

Going by Schedule :II given in M.V.Act, 1988, for a man having age between 50 to 55 years, there should be multiplier between 8 to 11. Under the circumstances, instead of multiplier of 12, we bring it down to 10.

So far as said figure of 20,000/ towards loss of estate is concerned, it is set aside, but in its place, usual compensation on account of loss of life to the tune of Rs.10,000/ which has not been granted by the Tribunal, is hereby substituted.

The datum figure thus remaining the same, in place of Rs. 2,88,000/ towards future economic loss, there will be a reduction of Rs. 48,000/ and hence the amount given will be Rs. 2,40,000/. In place of Rs. 20,000/ which is substituted by Rs. 10,000/ towards noble compensation towards loss of expectancy of life etc., in place of Rs. 3,13,000/ - the total amount awarded by the Tribunal, therefore on account of reduction to the tune of Rs. 38,000/, what is awarded will come to Rs. 2,75,000/. Rest of the award will remain as it is. The entire amount is now lying with the Tribunal and it should proceed to deal with the same in view of aforesaid order and after giving effect to the aforesaid reduction on prorata basis also to the interest and costs, the excess amount shall be refunded to the respondent appellants and the balance shall be dealt with in accordance with its order.

The appeal accordingly stands partly allowed with no order as to costs.

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